

REMARKS

In the Office Action of November 26, 2003, claims 1-6, 9-15 and 18 were rejected under 35 U.S.C. § 102 (b) as being anticipated by Lorenzen et al. (U.S. Patent No. 5,730,123).

Claims 7 and 16 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Lorenzen in view of Palmer (U.S. Patent No. 6,494,203).

Additionally, claims 1-18 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Palmer in view of Lorenzen.

Applicants respectfully submit that claim 1 defines over Lorenzen. Specifically, Lorenzen does not disclose a connector with a first end that defines a single opening and a second end that defines a single opening where the only access to the passage is through the openings of the first and second ends. Support for this claim amendment may be found in at least Fig. 1 of Applicants' application.

Referring to Lorenzen, this reference discloses an apparatus in which a distal access port 32 and a proximal access port 109 each define a single opening in which access to passageway 84 and passageway 86 may be obtained (see Fig. 1 of Lorenzen). However, access to the passageways 84, 86 may be obtained through openings other than only those defined in the distal access port 32 and the proximal access port 109. The tube adaptor 44 includes a passageway 139 that merges distally with passageway 84 (see Fig. 1 of Lorenzen; and column 7, lines 28-31 of Lorenzen). Additionally, another

passageway 118 merges distally with passageway 84 (see Fig. 1 of Lorenzen; and column 7, lines 4-6 of Lorenzen). As such, access to the passageways 84, 86 may be obtained through openings other than those defined in the distal access port 32 and the proximal access port 109.

Additionally, please note that the elbow 850 shown in Fig. 19 of Lorenzen has a passage that changes direction at an angle of 90 degrees, not one that changes direction at a single constant angle of approximately 120 degrees as set forth in claim 1 of Applicants' application. Therefore, Applicants respectfully submit that claim 1 defines over Lorenzen.

As stated, claim 1 was also rejected under 35 U.S.C. § 103 (a) as being unpatentable over Palmer in view of Lorenzen. Applicants respectfully submit that claim 1 defines over this combination of references. Referring first to Lorenzen, the proximal passageway 118 is present in order to allow for insertion of the catheter tube 120 through the passageway 84 and then into the patient (see Lorenzen at column 7, lines 6-15). Additionally, passageway 139 is present so that medication, an oxygenation catheter tube, monitoring devices, sampling devices, infection instruments, and the like may be inserted through an access port 42, through the passageway 139, into the passageway 84, and then into the patient (see Fig. 1 of Lorenzen; and column 8, lines 30-34 of Lorenzen).

Lorenzen teaches having the passageway 84 be in communication with the passageways 118 and 139 in order to accomplish the goals of the invention, which are to provide for access sites at proximal adaptor ports to ventilate the lungs of the patient, aspirate secretions from the lungs, oxygenate the lungs,

administer lavage, visually inspect, and so on (see the Abstract of Lorenzen; and Lorenzen at column 2, lines 1-13). Therefore, removal of the passageways 118 and 139 such that the passageways 84 and 86 are only accessed through openings in the distal and proximal access ports 32, 109 would completely frustrate the intended purpose of the invention and go completely against the teachings of Lorenzen. Additional embodiments in Lorenzen further teach gaining access to the passageways 84 and 86 through at least one additional opening besides those in the distal and proximal access ports 32, 109 (see the embodiments of Lorenzen disclosed in Figs. 9, 11, 15, 29, and 36).

Palmer discloses an adaptor 44 that has a passageway 84 and a passageway 86 (see Fig. 1 of Palmer). An opening in the access port 32 and an opening in the access port 36 allow for access for the passageways 84, 86 to be obtained. Additionally, another access port 34 provides an opening to the passageways 84 and 86 (see Fig. 1 of Lorenzen). The access port 34 is present in order to allow for insertion of an aspirating catheter tube 120 into the passageway 84 and then into the lungs of the patient for removal of secretions (see Lorenzen at column 5, lines 37-45). It would not have been obvious or desirable for one skilled in the art to remove the access port 34. First, Palmer specifically seeks to provide for an apparatus that has a proximal adaptor port in order to aspirate sections from the lungs of a patient (see the Abstract of Palmer). Second, Palmer explicitly teaches having the access port 34 be aligned with the passageway 84 in order to accommodate ease of insertion of the slideable aspirating catheter tube 120 (see Palmer at column 5, lines 37-43).

Modifying Palmer so that access to the passageways 84, 86 may only be obtained through openings in the access ports 32 and 36 would therefore go completely against the teachings of the reference.

Even if combined, the combination of Lorenzen and Palmer would still not produce the connector as set forth in claim 1 of Applicants' application. As discussed, both references teach towards having at least a third opening in order to obtain access to the passage. Claim 1 of Applicants' application calls for a configuration where the only access to the passage is through the openings in the first and second ends. There is no teaching in the combination of references to design a connector in this manner. In fact, the combination of Lorenzen and Palmer would result in a connector that has additional access to the passage apart from openings in the first and second ends because each of the references teach towards such a configuration. In order to establish *prima facie* obviousness, the combination of references must teach or suggest all of the elements of claim 1. Here, not only does the combination of Lorenzen and Palmer not suggest the connector of claim 1, the combination actually teaches **AWAY** from the structure of claim 1.

Therefore, Applicants respectfully submit that claim 1 defines over Lorenzen and over the combination of Palmer and Lorenzen and is in condition for allowance. Further, Applicants submit that all claims that depend from claim 1 (claims 2-8) are also in condition for allowance. Their rejections being made moot due to the allowance of claim 1.

In the present Amendment, Applicants have amended claims 9 and 18 in

a manner similar to, although not exact to, the amendments made to claim 1. As such, Applicants respectfully submit that claims 9 and 18 define over both Lorenzen and the combination of Palmer and Lorenzen for essentially the same reasons as discussed above with respect to claim 1 and are in condition for allowance. Also, all claims that depend from claim 9 (claims 11-17) are also in condition for allowance. Their rejections being made moot due to the allowance of claim 9.

With the present Amendment, Applicants submit that all pending claims are allowable and that the application is in condition for allowance. Favorable action thereon is respectfully requested. The Examiner is encouraged to contact the undersigned at his convenience to resolve any remaining issues.

Respectfully submitted,

DORITY & MANNING, P.A.

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Date

Neal P. Pierotti
Neal P. Pierotti
Reg. No. 45,716
P.O. Box 1449
Greenville, SC 29602-1449
(864) 271-1592
FAX (864) 233-7342